

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 1-16 and 19-23 remain pending in the present application.

Claim Rejections

Again, Applicant asserts the following in consideration of the rejections under 35 U.S.C. § 102 in view of U.S. Patent No. 6,556,217 B1 in the name of Makipaa, which is relied upon by the Examiner.

Applicant notes that Makipaa was granted on July 4, 2002, after the filing date of the present application. Accordingly, Makipaa is a prior art reference under 35 U.S.C. § 102(e). Further, Applicant notes that Makipaa was owned by the assignee of the present application at the time of the present invention was made. Specifically, Nokia Corporation is the owner of the entire right, title, and interest in and to Makipaa by virtue of an Assignment filed and recorded on October 17, 2000, on Reel/Frame 011258/0564, and Nokia Corporation is the owner of the entire right, title, and interest in and to the present claimed invention by virtue of an Assignment filed and recorded on May 21, 2002, on Reel/Frame 012932/0238.

Prior art under subsection (e) of 35 U.S.C. § 102 “shall not preclude patentability” where the reference and the claimed invention “were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.” Accordingly, Applicant respectfully requests that Makipaa cannot be relied upon for rejection of the pending claims.

Further, Kung fails to teach or suggest each feature of the pending claims.

Claim Rejections under 35 U.S.C. 102

The Examiner rejected claims 1-7, 9-16 and 19-23 as being anticipated by U.S. Patent No. 6,826,173 B1 in the name of Kung *et al.* (hereinafter “Kung”). Applicant respectfully disagrees and traverses these rejections for the following reasons.

Differing from the present application, the cited application by Kung is directed mainly towards IP telephony services, such as voice and multimedia calls, which is real-time media. Examiner notes that Kung provides a “content server” that is comparable to the network entity in the presently claimed invention. However, Applicant provides that while Kung does mention this multimedia server (222), he merely provides a brief description, inconclusive of the specified primary and descript functionality of the network entity which is specifically provided for the messaging service (define database to contain at least the multimedia, or message, reception capabilities???) within the present invention. In addition, the Examiner’s cited portions to column 35 and 37 with regard to an embodiment with various screen display capabilities appear to relate to multimedia calls, not messaging. Kung even recites “a screen or screen portion for displaying actual and alternative calling party preference data for a given communication to a first called party or user which may be a part of a call set-up screen or a terminal configuration screen.” (col. 37, lines 66-67 thru col. 38, lines 1-3). (underling added).

The preferences of Kung, cited in column 37-38 are such that they are stored to a broadband residential gateway (BRG) 300 and so that they concern calls, again, not messaging. Even further analysis of Kung provides that specific parameters are disclosed which describe and define the handling of incoming calls by the BRG. Examiner recites that these are comparable to the reception preferences of the present invention. However, these parameters should not be interpreted in this manner as they are actually related to the forwarding of calls, not to receiving of multimedia messages. A communication system including a multimedia messaging service (MMS) with “at least one of multimedia reception capabilities and reception preferences” that “transmits the notification message to said at least one addressed recipient” is what is provided and claimed within the present invention. Accordingly, Applicant respectfully requests these rejections be withdrawn.

Kung relates to “alerting subscribers to IP telephony services of a communication where the subscribers may be calling parties as well as called parties and for setting up such subscriber altering from a remote site such as a web site.” As such, it is clear that Kung’s disclosure is directed to real-time communication and the embodiments mentioned by the Examiner are related to chasing or following a user to a given terminal within a number of different

alternatives for the purpose of enabling the user to answer an incoming call while the caller is waiting as with ordinary phone calls. The claims of the present application, on the other hand, are directed to entirely different end in the spectrum of communications, namely to multimedia messaging that is buffered, non-realtime communication. In consequence, the problems and requirements are all different when it comes to the delivery of a multimedia calls and multimedia messages. An ordinarily skilled person would not have sought for an improvement to multimedia messaging from Kung that is not directed to this particular field of communication. Hence, Kung not only fails to disclose the features of claim 1, for instance, but Kung is further not suited for providing a springboard towards the pending claims in combination with other publications.

Claims 2-7, 9-10, 14-16, and 19-22 depend either directly or indirectly on allowable claims 1, 11, 12, 13 and 23, and are patentable for at least that reason, as well as additional patentable features when those claims are considered as a whole.

Rejections under 35 U.S.C. § 103

The Examiner rejected claim 8 under 35 U.S.C. § 103 as being unpatentable over Kung in further view of U.S. Patent No. 6,456,427 in the name of Ehrlich *et al.* Applicant respectfully disagrees and traverses the rejections. Claim 8 depends either directly or indirectly on allowable claim 1, is therefore patentable for at least that reason as well as other patentable features inclusive of the claim. Accordingly, Applicant requests that this rejections be withdrawn.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated,

otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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By /G. Peter Albert Jr./

FOLEY & LARDNER LLP
Customer Number: 30542
Telephone: (858) 847-6735
Facsimile: (858) 792-6773

G. Peter Albert Jr.
Attorney for Applicant
Registration No. 37,268